

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the matter of	)	
	)	
Ameritech Operating Companies	)	Transmittal No. 1312
Tariff FCC No. 2	)	
Nevada Bell Telephone Companies	)	Transmittal No. 20
Tariff FCC No. 1	)	
Pacific Bell Telephone Company	)	Transmittal No. 77
FCC Tariff No. 1	)	
Southern New England Telephone Companies	)	Transmittal No. 772
Tariff FCC No. 39	)	
Southwestern Bell Telephone Company	)	Transmittal No. 2906
FCC Tariff No. 73	)	

**ORDER**

**Adopted: August 16, 2002**

**Released: August 16, 2002**

By the Division Chief, Pricing Policy Division:

**I. INTRODUCTION**

1. Pursuant to section 204(a)(3) of the Communications Act of 1934, as amended,<sup>1</sup> the Ameritech Operating Companies (Ameritech), the Nevada Bell Telephone Companies (Nevada Bell), the Pacific Bell Telephone Company (Pacific Bell), the Southern New England Telephone Companies (SNET), and the Southwestern Bell Telephone Company (SWBT) filed Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, revising certain provisions of their interstate access tariffs, FCC. Nos. 2, 1, 1, 39, and 73, respectively, to become effective August 17, 2002.<sup>2</sup> Because these telephone companies are all part of SBC Communications, Inc., they will be referred to collectively throughout this order as "SBC." SBC's tariff revisions would amend the sections of its tariffs regarding security deposits to allow SBC to require security deposits in circumstances not covered by its existing tariffs. The revisions also would add provisions regarding advance payment for services.

2. SBC's current tariffs allow it to require security deposits from a customer that has a late payment history or lacks established credit. The revisions permit SBC to require a two-month deposit or prepayment if a customer has a late payment history or no established

<sup>1</sup> 47 U.S.C. § 204(a)(3).

<sup>2</sup> Ameritech Operating Companies, Nevada Bell Telephone Company, Pacific Bell Telephone Company, Southern New England Telephone Companies, and Southwestern Bell Telephone Company, Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, Tariffs FCC. Nos. 2, 1, 1, 39, and 73, respectively, (filed August 2, 2002).

credit, and the customer has “impaired credit worthiness.” “Impaired credit worthiness” is defined as meeting one of the following criteria: (1) the customer’s or its parent’s senior debt securities are below investment grade as defined by the Securities and Exchange Commission; (2) the customer’s or its parent’s senior debt securities are rated the lowest investment grade rating category by a nationally recognized statistical rating organization and are put on review by the rating organization for a possible downgrade; (3) if the customer does not have securities rated by credit rating agencies, the customer is rated “fair” or below in a composite credit appraisal as published by Dun and Bradstreet, or received a “high risk” Paydex score as published by Dun and Bradstreet; (4) the customer or its parent informs SBC or publicly states that it is unable to pay its debts; or (5) the customer or its parent is in voluntary or involuntary bankruptcy. SBC would require deposits or prepayments from customers with impaired credit worthiness only if their most recent interstate access bills total \$1 million or more.<sup>3</sup> The tariff revisions also provide that customers who have “impaired credit worthiness” but no history of late payment or lack of established credit have a choice of paying a one-month security deposit or prepaying for one month of service.<sup>4</sup> Such customers also must pay their bills in 21 days rather than 30 days.

3. SBC’s revisions also provide that, if a customer subject to a two-month deposit requirement fails to pay its bills on time, SBC would shorten from 30 days to 15 days the notice period for it to refuse to process new orders, including Primary Interexchange Carrier (PIC) orders from end users, or to discontinue service. If a customer subject to a one-month deposit requirement fails to pay its bills on time, this notice period would be shortened to 10 days.<sup>5</sup> Similarly, if a customer fails to pay a required deposit within 21 days, SBC could refuse to process orders or terminate service after a 10-day notice period.<sup>6</sup> Last, the revisions would allow SBC to refuse to process new orders or to terminate service after a 15-day notice period if a customer fails to make required payments to the Universal Service Fund.<sup>7</sup>

4. As justification for these revisions, SBC states that it has participated in 53 bankruptcies in the past two years.<sup>8</sup> SBC estimates that WorldCom owes it more than \$300 million, “most of which . . . could be lost in bankruptcy proceedings.”<sup>9</sup>

5. On August 9, 2002, AT&T Corp. (AT&T); WorldCom, Inc. (WorldCom); and counsel for the Association for Local Telecommunications Services (ALTS), the Competitive Telecommunications Association (CompTel), Grande Communications Networks, Inc., Ionex Telecommunications, Inc., KMC Telecom Holdings, Inc., NuVox, Inc., Sage Telecom, Inc., Talk America, Inc., and XO Communications, Inc.; and counsel for the Association of Communications Enterprises (ASCENT), ATX Communications, Inc., Focal Communication

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<sup>3</sup> See, e.g., Southwestern Bell Telephone Company Tariff FCC No. 73, Transmittal No. 2906, Original Pages 2-55.2 and 2-55.3.

<sup>4</sup> See, e.g., *id.*, Original Page 2-55.3.

<sup>5</sup> See, e.g., *id.*, 6<sup>th</sup> Revised Page 2-20 and 2-21.

<sup>6</sup> See, e.g., *id.*, Original Page 2-55.4

<sup>7</sup> See, e.g., *id.*, 1<sup>st</sup> Revised Page 2-22.

<sup>8</sup> See, e.g., *id.*, Description and Justification at 7.

<sup>9</sup> See, e.g., *id.* at 7-8.

Corp., Level 3 Communications, LLC, Pac-West Telecomm, Inc., US LEC Corp., and U.S. TelePacific Corp. filed petitions to reject, or, in the alternative, to suspend and investigate all the SBC tariffs.<sup>10</sup> Sprint Corporation (Sprint) filed a petition to reject, or, in the alternative, to suspend and investigate the Ameritech, Pacific Bell, SNET and SWBT tariffs.<sup>11</sup> MPower Communications Corp. (MPower) filed a petition to reject, or, in the alternative, to suspend and investigate the Ameritech, Pacific Bell, and SWBT tariffs.<sup>12</sup> Nextel Communications, Inc. (Nextel) filed a petition to reject, or, in the alternative, to suspend and investigate the SWBT tariff.<sup>13</sup> On August 16, 2002, SBC filed its reply.<sup>14</sup> SBC filed its reply one day later than required by our rules,<sup>15</sup> and, therefore, filed a motion to accept its late-filed reply.<sup>16</sup> In this Order we grant the petitions of AT&T, WorldCom, ALTS, Sprint, MPower and Nextel so far as they ask us to suspend and investigate SBC's tariffs, and we suspend for five months and set for investigation SBC's revisions to its interstate access Tariffs FCC Nos. 2, 1, 1, 39, and 73. We also grant SBC's motion to accept its late-filed reply, because, as we are suspending SBC's tariffs, no party is prejudiced by our grant of this motion.

## II. DISCUSSION

6. We find that petitioners raise substantial questions regarding the lawfulness of SBC's tariff revisions that require further investigation. They question whether the revisions violate a Commission prescription, are unjust, unreasonable, and discriminatory in violation of

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<sup>10</sup> Ameritech Operating Companies, Nevada Bell Telephone Company, Pacific Bell Telephone Company, Southern New England Telephone Companies, and Southwestern Bell Telephone Company, Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, Tariffs FCC Nos. 2, 1, 1, 39, and 73, respectively, Petition of AT&T Corp. (Aug. 9, 2002) (*AT&T Petition*); WorldCom Petition to Reject or, in the Alternative, Suspend and Investigate (Aug. 9, 2002) (*WorldCom Petition*); Petition to Reject or, Alternatively, to Suspend and Investigate of ALTS, CompTel, Grande Communications Networks, Inc., Ionex Telecommunications, Inc., KMC Telecom Holdings, Inc., NuVox, Inc., Sage Telecom, Inc., Talk America, Inc., and XO Communications, Inc. (Aug. 9, 2002) (*ALTS Joint Petition*); Petition to Reject or Suspend And Investigate Proposed Tariff Revisions of ASCENT, ATX Communications, Inc., Focal Communications Corp., Level 3 Communications, LLC, Pac-West Telecomm, Inc., US LEC Corp., and U.S. Telepacific Corp. (*ASCENT Joint Petition*).

<sup>11</sup> Ameritech Operating Companies, Pacific Bell Telephone Company, Southern New England Telephone Companies, and Southwestern Bell Telephone Company, Transmittal Nos. 1312, 77, 772, and 2906, respectively, Tariffs FCC Nos. 2, 1, 39, and 73, respectively, Petition of Sprint to Reject or Alternatively Suspend and Investigate (Aug. 9, 2002) (*Sprint Petition*).

<sup>12</sup> Ameritech Operating Companies, Pacific Bell Telephone Company, and Southwestern Bell Telephone Company, Transmittal Nos. 1312, 77, and 2906, respectively, Tariffs FCC Nos. 2, 1, and 73, respectively, Petitions of MPower Communications Corp. to Reject or Alternatively Suspend and Investigate (Aug. 9, 2002) (*MPower Petitions*).

<sup>13</sup> Southwestern Bell Telephone Company, Transmittal No. 2906, Tariff FCC No. 73, Petition of Nextel Communications, Inc. to Reject or Alternatively Suspend and Investigate (Aug. 9, 2002) (*Nextel Petition*).

<sup>14</sup> Ameritech Operating Companies, Nevada Bell Telephone Company, Pacific Bell Telephone Company, Southern New England Telephone Companies, and Southwestern Bell Telephone Company, Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, Tariffs FCC Nos. 2, 1, 1, 39, and 73, respectively, SBC Opposition to Petition to Reject or, in the Alternative, Suspend and Investigate (Aug. 16, 2002).

<sup>15</sup> 47 C.F.R. §1.773(b).

<sup>16</sup> Ameritech Operating Companies, Nevada Bell Telephone Company, Pacific Bell Telephone Company, Southern New England Telephone Companies, and Southwestern Bell Telephone Company, Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, Tariffs FCC Nos. 2, 1, 1, 39, and 73, respectively, SBC Motion for Acceptance of Late-Filed Reply (Aug. 16, 2002).

sections 201(b) and 202(a) of the Act, and whether the language of the revisions is vague and ambiguous in violation of sections 61.2 and 61.54 of the Commission's rules.<sup>17</sup> Petitioners further question whether SBC has demonstrated substantial cause for a material change by a dominant carrier in a provision of a term plan.<sup>18</sup> Finally, certain petitioners claim that SBC's revisions conflict with provisions of the bankruptcy code.<sup>19</sup> For these reasons, we conclude that substantial questions regarding the lawfulness of SBC's FCC Tariffs Nos. 2, 1, 1, 39 and 73, Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, require further investigation, and we suspend them for five months. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but not be limited to, the issues identified in this paragraph. We may also, by order, identify discrete issues that do not warrant further investigation.

### III. *EX PARTE* REQUIREMENTS

7. This investigation is a permit-but-disclose proceeding and is subject to the requirements of section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>20</sup> Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b).

### IV. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Transmittal Nos. 1312, 20, 77, 772, and 2906, respectively, Tariffs FCC Nos. 2, 1, 1, 39, and 73 of the Ameritech Operating Companies, the Nevada Bell Telephone Company, the Pacific Bell Telephone Company, the Southern New England Telephone Companies, and the Southwestern Bell Telephone Company ARE SUSPENDED for five months and an investigation IS INSTITUTED.

9. IT IS FURTHER ORDERED that the Ameritech Operating Companies, the Nevada Bell Telephone Company, the Pacific Bell Telephone Company, the Southern New England Telephone Companies, and the Southwestern Bell Telephone Company SHALL FILE a supplement within five business days from the release date of this order reflecting the suspension. They should cite the "DA" number on the instant order as the authority for the filing.

10. IT IS FURTHER ORDERED that the Motion for Acceptance of Late-Filed Reply filed by SBC Communications, Inc. IS GRANTED.

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<sup>17</sup> 47 U.S.C. § 201(b), 47 C.F.R. §§ 61.2, 61.54. *See, e.g.*, AT&T Petition at 11-16; Nextel Petition at 4-7; MPower Petitions at 1-6.

<sup>18</sup> *See, e.g.*, ALTS Joint Petition at 16-17; Sprint Petition at 6-7.

<sup>19</sup> *See, e.g.*, WorldCom Petition at 8-9; ALTS Joint Petition at 10.

<sup>20</sup> *See* 47 C.F.R. § 1.1206(b)(2), as revised.

11. IT IS FURTHER ORDERED that the petitions to reject, or, in the alternative, to suspend and investigate filed by AT&T Corp.; WorldCom, Inc.; counsel for the Association for Local Telecommunications Services, the Competitive Telecommunications Association, Grande Communications Networks, Inc., Ionex Telecommunications, Inc., KMC Telecom Holdings, Inc., NuVox, Inc., Sage Telecom, Inc., Talk America, Inc., and XO Communications, Inc.; Sprint Corporation; MPower Communications Corporation; and Nextel Communications, Inc.; and the Association of Communications Enterprises, ATX Communications, Inc., Focal Communication Corp., Level 3 Communications, LLC, Pac-West Telecomm, Inc., US LEC Corp., and U.S. TelePacific Corp., ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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Wireline Competition Bureau